

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

**Civ. No. 20-1191**

\$18,000.00 IN UNITED STATES CURRENCY,

*Defendant-in-rem.*

**VERIFIED COMPLAINT FOR FORFEITURE *IN REM***

Plaintiff, United States of America, brings this complaint in accordance with Supplemental Rule G(2) of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions, and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action to forfeit and condemn to the use and benefit of the United States of America property involved in violations of the Controlled Substances Act that is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

**DEFENDANT *IN REM***

2. The defendant *in rem* consists of the following:
  - i. Eighteen thousand dollars (\$18,000.00) in U.S. Currency, (hereafter referred to as "Defendant Currency").
3. The Defendant Currency was seized by the Drug Enforcement Administration on May 26, 2020, in the District of New Mexico.
4. The Defendant Currency is now, and during the pendency of this action will be, in the jurisdiction of this Court.

**JURISDICTION AND VENUE**

5. The United States District Court for the District of New Mexico has subject matter jurisdiction under 28 U.S.C. §§ 1345, 1355(a) and 1356.

6. Venue for this civil forfeiture action is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, as acts or omissions giving rise to the forfeiture took place in this district and the property is found in this district. Upon the filing of this complaint, the Defendant Funds will be arrested by execution of a Warrant for Arrest *In Rem* in the District of New Mexico.

#### **FACTS**

7. On May 26, 2020, Albuquerque Police Department (APD) Officer C. Coleman observed Jerome Marvin Martinez exit a blue 2007 BMW 525I automobile. It was parked outside of the residence located at 411 Iron Avenue SW. Albuquerque, New Mexico. The 2007 BMW did not have a license plate.

8. Officer Coleman activated the emergency equipment on his marked police vehicle while his vehicle was positioned behind the 2007 BMW. Jerome Marvin Martinez entered the 2007 BMW 525I and sat in the driver seat. Officer Coleman approached Jerome Marvin Martinez at which time he opened the door of his vehicle and advised he was unable to roll his window down.

9. Officer Coleman advised Jerome Marvin Martinez that his 2007 BMW was parked on the street without a license plate. While speaking with Martinez, Officer Coleman observed in plain view a plastic bundle, the size of a golf ball, containing a white, crystalline substance that appeared consistent with methamphetamine sitting near the door jamb adjacent to the driver's seat.

10. Officer Coleman directed Martinez to exit the 2007 BMW. He complied. Officer Coleman handcuffed Martinez and conducted a pat down of Martinez's person. Officer Coleman felt several additional bundles in Martinez's left pants pocket. These bundles as being similar in

size to the bundle he had observed in Martinez's vehicle. Officer Coleman knew the crystalline and powdered substances are consistent with the properties and packaging of controlled substances.

11. Officer Coleman removed the bundles from Martinez's pocket. One of the bundles contained a white crystalline substance consistent with methamphetamine, and two of the bundles contained a brown powdery substance consistent with heroin. Field tests were conducted on the bundles. The white crystalline substance tested presumptive positive for methamphetamine, and the brown powdery substance tested presumptive positive for heroin. Officer Pablo Hernandez observed and retrieved a digital scale with a brown residue in plain view. Officer Coleman placed Martinez under arrest pursuant.

12. The registered owners of the 2007 BMW, Vehicle Identification Number WBANE53517CW62557, are Madeline M. Rodriguez and Angelica Esther Rodriguez, 2884 Henry Lynch Road, Unit 46, Santa Fe, New Mexico 87507-3395.

13. Martinez advised there was a gray backpack in his vehicle containing approximately \$20,000.00 in cash.

14. Based upon the fact the quantity of methamphetamine and heroin far exceeded the amount for personal use, the packaging of the methamphetamine and heroin, the presence of a digital scale with brown residue and Martinez's admission that \$20,000.00 was in the vehicle, Martinez likely intended to distribute the methamphetamine and heroin. The BMW was sealed by APD Crime Scene Specialist Tylai Fox and towed to the APD Crime Lab.

15. Martinez was taken to the Metropolitan Detention Center and booked on the drug charges and an outstanding misdemeanor warrant. During the booking process, a buprenorphine/naloxone (8mg/2mg) sublingual film was located within Martinez's wallet. The methamphetamine and heroin were weighed at 23.8 grams and 20.6 grams respectively. The

heroin, methamphetamine, digital scale and buprenorphine/naloxone sublingual film were tagged into evidence.

16. On May 28, 2020, the Drug Enforcement Administration (DEA) Special Agent Jason Jones and Task Force Officer (TFO) Jason Franklin responded to the APD Crime Lab at the request of the APD to assist in the execution of a State of New Mexico Search Warrant on the 2007 BMW Vehicle. During the execution of the search warrant, Agent Jones located and seized an unknown amount of U.S. Currency (later determined Defendant \$18,000), 7 grams of heroin and a drug ledger found in a grey backpack located on the passenger side front seat.

17. On June 2, 2020, the unknown amount of U.S. Currency was transported to Loomis Armored Transport for an official count, resulting in a total of \$18,000.00 U.S. Currency.

#### **FIRST CLAIM FOR RELIEF**

18. The United States incorporates by reference the allegations in paragraphs 1 through 17 as though fully set forth.


19. Title 21, United States Code, Section 881(a)(6) subjects to forfeiture “[a]ll moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.”

20. Defendant Currency was furnished, or intended to be furnished, in exchange for a controlled substance, or constitutes proceeds traceable to such an exchange, or was used or intended to be used to facilitate a violation of the Controlled Substances Act and is thus subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6).

WHEREFORE: Plaintiff seeks arrest of Defendant Currency and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Currency, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

JOHN C. ANDERSON  
United States Attorney



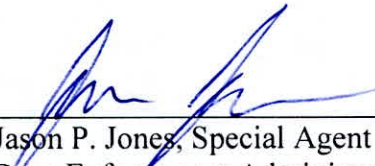
STEPHEN R. KOTZ  
Assistant U.S. Attorney  
P.O. Box 607  
Albuquerque, NM 87103  
(505) 346-7274

**28 U.S.C. § 1746 DECLARATION**

I am a Special Agent with the Drug Enforcement Administration who has read the contents of the Complaint for Forfeiture *In Rem* to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury and the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

Dated: 11/16/2020

  
\_\_\_\_\_  
Jason P. Jones, Special Agent  
Drug Enforcement Administration

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

\$18,000 IN U.S. CURRENCY.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

21 U.S.C. § 881(a)(6)

Brief description of cause:

**VI. CAUSE OF ACTION****VII. REQUESTED IN**

CHECK IF THIS IS A CLASS ACTION

DEMAND \$

CHECK YES only if demanded in complaint:

**COMPLAINT:**

UNDER RULE 23, F.R.Cv.P.

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

11/16/2020

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE